

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

In re: RE017699808us-01 TRUST

No. 16mc25 MV

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on RE017699808us-01 Trust's Actual Notice of Removal, Doc. 4, filed April 26, 2016.

On February 10, 2016, this miscellaneous civil case was initiated by "private express trust re017699808us-01 trust" ("Trust"). Doc. 1 at 3. Miscellaneous actions are used for administrative matters that require resolution through the judicial system but which are not considered civil or criminal cases.

Documents 4 and 5 in this case are an "actual notice for removal" and an "amended response to plaintiff's complaint as actual notice for removal to number 1:16-mc-00025 *sealed*," which purport to remove a state court case, D-101-CV-2009-04076, to this Court.

Because the state court case is a foreclosure action filed by Aurora Loan Services, L.L.C. against Melanie Milasinovich and others, it is properly considered a civil action, not a miscellaneous action. Consequently, the Court will direct the Clerk of the Court to close this miscellaneous case, open a new civil action, and file all of the documents in this miscellaneous case in the new civil action. The Clerk shall also file this order in the new civil action.

Because the Trust has initiated a new civil action by removing the state court case to this miscellaneous case, the Trust must, within fourteen days, pay the \$400.00 fee¹ for instituting a

¹ The fee for instituting any civil action, suit or proceeding is comprised of a \$350.00 filing fee, *see* 28 U.S.C. §1914, and a \$50.00 administrative fee.

new case or show cause why the new civil action should not be dismissed without prejudice for failure to pay the filing fee. Failure to timely pay the fee or show cause may result in dismissal of this case without prejudice and remand of the removed case to state court.

It appears that this miscellaneous case was improperly sealed. Courts have discretion to allow the sealing of documents if the public's right of access is outweighed by other interests. *See JetAway Aviation, LLC v. Bd. of Cnty. Comm'rs*, 754 F.3d 824, 826 (10th Cir.2014) (per curiam). “To overcome [the] presumption against sealing, the party seeking to seal records must articulate a real and substantial interest that justifies depriving the public of access to the records that inform our decision-making process.” *Id.* (internal quotation marks omitted). The Trust shall have fourteen days from entry of this Order “to articulate a real and substantial interest that justifies depriving the public of access to the records that inform our decision-making process.” Failure to timely articulate such an interest may result in the unsealing of this miscellaneous case and the new civil action.

The Court reminds the Trust that a “corporation, partnership or business entity other than a natural person must be represented by an attorney authorized to practice before this Court.” D.N.M.LR-Civ. 83.7. Failure to have an attorney authorized to practice before this Court enter an appearance in the new civil action within fourteen days of entry of this Order may result in dismissal of the new civil action without prejudice.

IT IS ORDERED that the Clerk of the Court close this miscellaneous case, open a new civil action, and file all of the documents in this miscellaneous case in the new civil action. The Clerk shall also file this order in the new civil action. The new civil action shall be sealed until further order of the Court.

IT IS ALSO ORDERED that, within fourteen days of entry of this Order, the RE017699808us-01 Trust shall pay the \$400.00 fee for instituting a new case or show cause why the new civil action should not be dismissed without prejudice for failure to pay the filing fee.

IT IS FURTHER ORDERED that the RE017699808us-01 Trust shall have fourteen days from entry of this Order to articulate a real and substantial interest that justifies sealing this miscellaneous case and the new civil action.

IT IS FINALLY ORDERED that the RE017699808us-01 Trust shall have fourteen days from entry of this Order to have an attorney authorized to practice before this Court enter an appearance in the new civil action.


UNITED STATES CHIEF MAGISTRATE JUDGE